

QUID NOVI

McGill University, Faculty of Law
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- AN UNMISTAKABLE SIGN THAT WE'RE
APPROACHING THE END OF THE TERM -

QUID NOVI

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Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discréction du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:
<http://www.law.mcgill.ca/quid/edpolicy.html>.

Contributions should preferably be submitted as a .doc attachment.

EDITORIAL

In this, my last Quid editorial, I would like to respond briefly to an article published in these pages last week critical of the occasional practice of partially reprinting (in this space) excerpts of not just American but global news and miscellany.

The argument against the practice is that it leaves no room for voice or agency among its readers. The best refutation of this argument is the thoughtfulness (i.e., the embodied agency and voice) of the article itself, an article written in response to the juxtaposition of sundry news items. Indeed, few articles in the Quid ever provoke a response. That the reprinting of various news items did is its own best advertisement.

To that I would add that the practice of ironic juxtaposition has a long satirical-cum-political history. To read the juxtaposed facts as an indictment of the United States alone is to miss its real point: the absurd, infirm state of the world at large.

The facts are the facts. The facts do not conform themselves to what you want them to be. Reality does not come pre-fabricated, tailored to suit your needs. Would that it be! Responsible, intelligent people have to use their intelligence to re-fashion the world. That is the responsibility incumbent upon all of us. *Bon courage!*

-- J.M.

THE PAPER CHASE

by Aleks Zivanovic (Law III)

Scene: Thompson House, two law students hunched over their laptops writing their essay papers. Hilarity ensues.

Law Student 1 (hereafter LS1): 4,192!

Law Student 2 (hereafter LS2): What?

LS1: Word count. 3,808 to go...

LS2: Not bad.

LS1: Not really, I've added 200 words in 2 hours... at this rate I'll be done by Christmas.

LS2: Sometimes it trickles and sometimes it flows...

LS1: ...and sometimes you could use the literary equivalent of Ex-lax.

LS2: What do you think of this sentence: (proceeds to read verbose legalese text)

LS1: Nice... I liked the bit about meta-spaces and meta-norms... I need a bit of meta-fluff... makes 'em weak at the knees.

LS2: You really think it's cool?

LS1: Sure... you're pitching it at the right level... just above his head... intellectual intimidation man, if he's not sure he understands it, it must be awesome!

LS2: Cynical bastard.

LS1: Seriously dude... I'm composing bits about ...Kantian bargains of reciprocal freedom as normative social maxim... five years ago I never pictured myself coming up with this crap.

LS2: Well, it's what we're trained to do...

LS1: I know, I know... to be loquaciously erudite in the service of mass delusion. We're bloody Sophists, guardians of the ivory, gold and diamond towers.

LS2: But well paid sophists, none of that hemlock for us.

LS1: I feel like writing something else. Something that is supposed to be funny...

LS2: What do you mean?

LS1: It's like when you asked me if I find it harder to write the introduction or the conclusion... I find those easy to write because there I know I'm bullshitting...

LS2: But we bullshit all the time...

LS1: I know... but in the body of the text it's not supposed to be bullshit, yet it is... it ends up being funny even though it's supposed to be "learned".

LS2: So what would you write?

LS1: I dunno ... screenplay of our experiences maybe...

LS2: Dude!

LS1: Dhesi and Slavko go to Harvey's?

LS2: Cliché... besides... you're never going to be able to parlay our daily commute to Thompson House into a quirky road-trip.

LS1: True. It would have to be a sitcom.

LS2: What kind?

LS1: Something like Seinfeld... I like the idea of it being about nothing... sort of a meta-metaphor for law-school...

LS2: Character-driven in other words?

LS1: Exactly! Like you'd be my perfect Costanza!

LS2: I think this is the end of a beautiful friendship... how am I Costanza?

LS1: Well, OK, you have a job... and a girlfriend... you're not fat... and your parents are more likely to retire to Gujarat than Del Boca Vista, but otherwise... the perfect Costanza!

LS2: Oh well... other than all those things.... and who'd you be?

LS1: Kramer.

LS2: No way! Why do you get Kramer?

LS1: It's all in the height... and the slightly dishevelled look.

LS2: Ha! Someone's sleeping with the writer! What about Seinfeld?

LS1: No Seinfeld.

LS2: No Seinfeld? Why not?

LS1: He was a whiny character... just a straight man to all the quirky characters... No Seinfeld.

LS2: So who is our Elaine?

LS1: Can't have Elaine.

LS2: No Elaine either? Why?

LS1: Look, if we have an Elaine every woman we know will think it's her... trust me... don't want to go there.

LS2: She could be a composite...

LS1: Like so-and-so's ass and so-and-so's....

LS2: No! Like character composite!

LS1. (Thinks for a minute) Dude, we don't know that many women.

LS2: True.

LS1: (sigh) it would never work.

LS2: You're right... you can't just up and write a sitcom...

LS1: You need talent... you need direction, ideas...

LS2: Not to mention humour... you need real skills for that.

LS1: Yep.

LS2: Yep.

LS1: Better get back to that paper.

(Clack of keyboards)

LS1: 4,199. ■

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IMAGINING THE RIGHT TO EDUCATION

by Emilia Ordolis (Law II)

William Butler Yeats wrote that "education is not the filling of a pail, but the lighting of a fire." Education has been declared a right by countless international conventions. Countries around the world have signed on to promote its universality. The United Nations dedicated a decade to it, which has come and gone. Despite all this, 125 million primary-school-age children in the world are not in school. Even within the boundaries of our own country, children go to school hungry, unable to learn and concentrate. These realities make you wonder what the right to education means, and what value our international promises have.

Three weeks ago, thanks to the generous support of the Dean's Discretionary Fund, the Human Rights Working Group and the Rights and Democracy Delegation presented a project entitled *In Children's Hands: An Art Exhibition on the Convention on the Rights of the Child*. This initiative sought to explore children's ideas on the meaning of their rights. Workshops were held in local elementary schools with students from Kindergarten

to Grade 6.

Unlike the international conventions and committee recommendations, a class of five-year olds can provide you with a very clear definition of the right to education. When asked "what does it mean?" they answered: *The right to go to school for free. The right to have books and pencils. Good teachers. Desks. The right to become a doctor, a veterinarian, an engineer.* When asked "who does it belong to?" they responded: *Everyone. Everyone in the world. Even poor people.* When asked "why?" they replied: *Because. That is what a right means.*

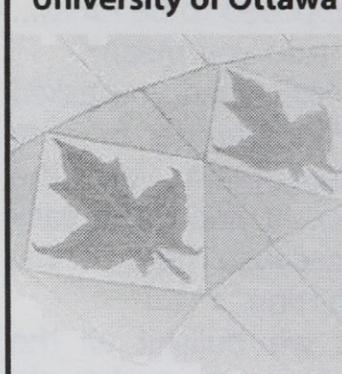
The students did not stop there. They pointed to the connection between the right to education and other social and economic rights. Moreover, they felt that the convention had forgotten certain rights, such as the right to peace, to love, and to a safe family. They decided that when they become world leaders, they are going to fix all of these problems.

On March 30th, students across Quebec marched to defend the right to

improvements in the loans and bursaries system are necessary in order to address the problem of mounting student debt.

Regardless of whether you chose to protest, listen, or disagree, maybe it is useful to remember what your 5 year-old self might have thought about these questions. What words would you have chosen, what picture would you have drawn, what colours would you have seen the world in? Perhaps it is important that we listen to those voices, that we realize how much we have gotten caught up in our grown-up realities, that we ask what has become of our capacity to imagine. ■

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MCGILL-CHINA EXCHANGE PROGRAM WELL ON ITS WAY

by Joseph Reynaud (Law III)

McGill law students are now one step away from being able to study in one of the world's largest, most innovative and rapidly developing jurisdictions.

During the course of his three-day visit to the McGill Faculty of Law last week, Vice-dean Zhenmin Wang from the Tsinghua School of Law (Beijing) met with our own Dean Nicholas Kasirer, Assistant Dean Véronique Bélanger and representatives from the Asia-Pacific Law Association (APLAM) in order to negotiate the modalities of a student exchange between McGill and Tsinghua.

The deans reached a consensus on the form and substance of a student exchange between the two law faculties. The exchange will function along the same lines as other exchange programs with McGill partners around the world: while they take courses at the partner university, exchange students receive credits from -and pay the tuition of- their home university. The exchange project must undergo review and be approved by Tsinghua and McGill universities' respective authorities before it is officially launched. Nevertheless, those involved are optimistic about the fact that McGill law students will soon be able to study at one of China's finest institutions of higher learning.

Founded in 1929, the Tsinghua School of Law has graduated world-renowned experts such as Tieya Wang (former International Court Justice) and Zheng Duanmu (former Deputy Chief Justice of the Supreme Court of China). In the early fifties, the ideological climate in China emphasized policy over law and the faculty's doors were closed. Since its reopening eleven years ago, Tsinghua School of Law has rapidly grown to become one of China's highest-ranked and most dynamic law faculties, attracting China's top students and faculty. An institution with international ambitions, it was the first law school in mainland China to launch an English-language LL.M program in Chinese law.

To this day, the McGill Faculty of Law had no partner for conventional student exchanges in China. Students wishing to study in China essentially relied on a month-long summer program offered by the Université de Montréal at another university, China University of Political Science and Law (CUPL). The Tsinghua-McGill exchange will enable McGill law students to study Chinese law in China for lengthier semester-long stays. Vice-dean Wang also confirmed that McGill students participating in the exchange would have access to coveted English-language courses in Chinese law, which means that students who are not fluent in Mandarin will be able

to take part in the exchange.

It is no secret that numerous American and Canadian universities are actively seeking to develop relationships with Chinese institutions of higher learning. More than simply following a trend however, McGill's interest is firmly rooted in the intellectual common ground shared by McGill and Tsinghua. It was pointed out by Dean Nicholas Kasirer that both McGill and Tsinghua are dedicated to the study of law in a fashion that transcends a single legal tradition. Both institutions are also internationalist in their outlooks and moreover, both produce research on topics as wide-ranging as human rights, international trade or legal theory. The deans agreed that a student exchange could be the prelude to greater cooperation in the future, perhaps in the form of a faculty exchange.

During the course of his visit, Vice-dean Wang gave a well-attended and fascinating lecture on the nascent development of constitutional review in China. He presented his view that the development of a Chinese constitutional review process is fundamental in order to strengthen China's rule of law and government accountability, to protect human rights as well as to promote national unity. Zhenmin Wang, a Senior Fullbright Visiting Scholar at Harvard, later confessed that

he was impressed by the quality of the McGill students he met at the lecture and at a reception in his honor. In particular, he was struck by the knowledge, thoughtfulness and maturity that transpired from their questions.

The debates surrounding the coming introduction of China's new Civil code illustrate why McGill's presence in China is long overdue: Chinese jurists disagree on whether the inclusion of two separate books for contracts and extra-contractual responsibility (Torts) is an acceptable option. Those attached to the civilian concept of "Obligations" see in this move a major conceptual fallacy. On the other hand, those open to the common law's separation of "Contract" and "Tort" view it as a natural phenomenon. Training in several legal systems is not only an asset to interpret and apply Chinese legislation, it is also necessary to understand China's deep and ongoing legal reforms.

The China exchange project is student-driven initiative that was started by APLAM two years ago. Weiguo He, current APLAM President and Tsinghua graduate, greatly contributed by putting the two faculties in touch with each other. In addition to thanking him, we also thank John Haffner, Joseph Reynaud and all other APLAM members who donated their time and efforts, Andres Drew and the LSA for actively supporting the project, Vice-dean Wang for coming to visit us and the Faculty of Law's administration for working with us to achieve this goal. A summary of Dean Wang's lecture will be available soon in the Quid Novi and will be posted on the APLAM website: <http://www.law.mcgill.ca/students/clubs/aplam/>. ■

LSA Committee Descriptions

By: Stephanie Colford, VP-Administration

The LSA is recruiting for the following committees for 2006 to 2007:

Curriculum Committee – Comité du Curriculum (1 position) – Responsible for providing feedback on proposed curriculum and course changes. Responsable de fournir des commentaires sur les changements proposés au curriculum et aux cours offerts.

Admissions Committee – Comité des Admissions (2 positions) – Responsible for assisting with the student admissions process. These positions are only open to students in the final year of school. Responsable d'assister au processus d'admission d'étudiants. Ces positions sont seulement disponibles aux étudiants de dernière année.

Staff Appointments Committee – Comité de Sélection de Personnel (1 position) – Works with faculty to interview and evaluate prospective candidates for teaching position at McGill Law. Collabore avec les professeurs et les doyens pour interviewer et évaluer les candidats pour les positions d'enseignement disponibles à la Faculté de Droit.

Library Committee – Comité de Bibliothèque (2 positions) – Provides feedback on operation and expenditures associated with Nahum Gelber Library. Fournit des commentaires sur le fonctionnement et les dépenses associées à la bibliothèque de droit Nahum Gelber.

Prizes and Scholarships Committee – Comité des Prix et Bourses (1 position) – Works with faculty to set criteria and choose recipients for prizes and scholarships. Collabore avec les professeurs et les doyens pour déterminer les critères de mérite des prix et bourses et pour sélectionner les méritants.

Computer Committee – Comité des Ordinateurs (2 positions) – Works with computer technicians to provide input on computer expenditures and upgrades. Also oversees the administration of pubdocs. Travaille avec les techniciens pour déterminer quelles dépenses et mises à niveau sont nécessaires pour les ordinateurs. Gère aussi l'administration de pubdocs.

Educational Equity Committee – Comité pour l'Équité en Éducation (6 positions) – Initiates projects to promote ethnic/social/economic/cultural diversity at McGill Law. Past projects have included recruitment information sessions targeting minority groups (2003-2004) and the creation of a mentor program (2004-2005). Initie des projets pour promouvoir la diversité ethnique, sociale, économique et culturelle à la faculté de droit. Des projets récents incluent des sessions de recrutement visées aux groupes minoritaires (2003-2004) et la création d'un programme de mentorat.

Orientation Committee – Comité d'Orientation (3 positions) – Organizes two weeks of orientation events, fundraises in conjunction with the VP Public Relations, finds volunteers to staff events and communicates with new students. The majority of the

Committee's work takes place over the summer so prospective candidates must be in Montreal for most of May to August. Organise deux semaines d'évènements pour l'orientation, fait des levées de fonds avec le VP Relations Publiques, recherche des bénévoles pour travailler aux évènements et communique avec les nouveaux étudiants. La majorité du travail se déroule au cours de l'été alors les candidats doivent être à Montréal de mai à août.

If you are not interested in being a member of the Orientation Committee but are still interested in helping in some organizational capacity, please feel free to submit a cover letter outlining the ways in which you might be able to help. Depending on the Orientation Committee's needs, you may be contacted over the summer to assist with projects. Please note that Orientation leaders will be recruited at a later date. Si vous ne voulez pas être membre du comité mais désirez quand même vous impliquer, faites parvenir une lettre de présentation qui décrit comment vous pourriez aider. Dépendamment des besoins du comité, il est possible que vous soyez contacté au cours de l'été pour assister aux projets. Veuillez noter que les chefs d'équipe pour l'orientation seront recrutés plus tard dans l'année.

Placement Office Advisory and Planning Committee – Comité pour Travailler avec le Service de Placement (2 positions) – Meets with staff of the Career Placement Office to provide feedback on recruitment and career-related activities. Rencontre le personnel du Service de Placement pour donner des commentaires au niveau du recrutement/course aux stages et les activités reliées aux carrières.

10. **Skit Nite Committee – Comité du Skit Nite (2 positions)** – Oversees all aspects of Skit Nite, including recruitment of performers, committee members, fundraising, developing a theme and marketing. Surveillent tous les aspects du Skit Nite, entre autres : l'audition de performeurs, l'engagement des membres du comité, les levées de fonds, le développement du thème de la soirée et le marketing.
11. **Yearbook Editor-in-Chief – Rédacteur-en-chef de l'Annuaire (1 position)/Assistant Editors (3 positions)** – Publishes and promotes the annual faculty yearbook. Publie et fait la promotion de l'annuaire de la faculté.
12. **Translation Committee – Comité de Traduction (2 positions)** – Responsible for translating LSA documents. Translation is primarily English to French, but some French to English may be required. Responsable de la traduction des documents de l'AÉD. La traduction est typiquement de l'anglais au français, mais l'inverse est parfois requis.
13. **LSA Judicial Board – Comité Judiciaire de l'AÉD (3 positions)** – Responsible for adjudicating election and LSA-related matters. Responsable de l'adjudication des élections et d'autres affaires de l'AÉD.
14. **Chief Returning Officer (1 position)** – Oversees the election process in the fall and spring. Responsible for advertising available positions, recruiting volunteers to staff polls, preparing ballots and tabulating results. Surveille et gère le processus des élections à l'automne et au printemps. Responsable de la publicité des positions

disponibles, du recrutement de bénévoles pour travailler aux postes de scrutin, la préparation des billets de vote ainsi que la tabulation des votes.

15. Graduation Committee – Comité de Graduation: this committee is divided into three sub-committees. Ce comité est subdivisé en 3 sous-comités.

- a. The Graduation Administrative Affairs Committee (1 chair, 2 members) – Le comité des affaires administratives: will be responsible for the administration of the Valedictorian selection process, the administration of the graduation photo process, residual administrative issues pertaining to the graduation class, and shall help in the preparation of the annual Convocation in conjunction with the Faculty. Responsable du processus de sélection du Valedictorian, des photos de finissants, et de tout autre question administrative en relation avec la promotion 2007. Assiste aux préparations pour les cérémonies de graduation, si nécessaire.
- b. The Graduation Ball Committee (1 chair) – Le comité du bal des finissants: shall organize the annual Graduation Ball and undertake related fundraising activities. Organise le bal des finissants annuel ainsi que les levées de fonds associées à cet évènement.
- c. The Class Action Committee (1 to 3 chairs): shall be responsible for raising funds from the graduating class for the Class Gift by consulting with the graduating class. Responsable de la levée de fonds pour le Class Gift en consultation avec les finissants. It shall also be responsible for the submission of the Legacy Report to Faculty Council. Responsable de la rédaction du Legacy Report et de sa présentation au Conseil de la Faculté.

16. Awards Committee – Comité des Prix de l'AÉD – 3 positions- Responsible for the administration and distribution of LSA awards, including the *LSA Teaching Excellence Award*, the *Alan Neil Assh Award* (contribution to sports), the *Patricia Allen Award for Participation* (extra-curricular involvement) and the *Law Student Association Graduating Student Award* (outstanding contribution to student life). This committee's work is concentrated in March and April. Responsable de l'administration et de la distribution des prix de l'AÉD, incluant le *Prix d'Excellence en Enseignement*, le *Prix Alan Neil Assh* (contribution aux sports), le *Prix Patricia Allen pour la Participation* (activités hors-scolaires) et le *Prix de l'Association des Étudiants en Droit pour Étudiant Finissant* (contribution à la vie étudiante). Le travail de ce comité est concentré aux mois de mars et d'avril.

17. Student Well-being Committee (1 position) – comité du bien-être étudiant: shall co-ordinate with the LSA, and the Associate or Assistant Deans, mental and physical well-being related activities at the Faculty of Law. Organisera des activités à la faculté pour promouvoir le bien-être psychologique et physique en relation avec l'AÉD et les doyennes associées ou assistantes.

18. Web Designer – Concepteur du Site Web (1 position) – Responsible for updating and maintaining the LSA website. Works in coordination with the LSA executives. A salary to be discussed. Le concepteur du site web est

responsable de créer et de maintenir le site de l'AÉD. Travaille avec le conseil exécutif de l'AÉD. Salaire à négocier.

19. Constitution and By-law Committee (2 positions) – Comité de la Constitution et des Règlements: shall oversee the translation of the by-laws and undertake to review the translation of the Constitution. Shall also publicize the translation of the Constitution in preparation for a referendum in September. Responsable de la traduction des règlements et de la révision de la traduction de la Constitution. Responsable de la publicité de cette traduction en anticipation du référendum en septembre.

LSA Summer office assistant: The office assistant will be responsible for the day-to-day administrative affairs of the LSA during the period of employment. These duties of this part-time paid position include administering the incoming and outgoing mail, phone calls, faxes, and emails. The office assistant will also administer first year entry arrangements, including orientation registration, law partners forms, sweatshirt orders and bogenda updates. In addition, the office assistant shall look into possible improvements to LSA communications strategies, and help in the formulation of new directions for career and academic support at the faculty.

Please submit a cover letter and resume for each position that you would like to apply for. Students are welcome to apply for multiple positions.

Applications are due by 4 pm on April 7, 2005. Please deposit applications in the VP Administrative's mailbox or send them by email to vp-admin.lsa@mail.mcgill.ca

Interviews (if required) will take place in early May, at the discretion of the incoming LSA executive. Telephone interviews will be arranged for any candidates who are out-of-town for the summer.

If you have any questions, please don't hesitate to contact the VP Administration at vp-admin.lsa@mail.mcgill.ca or feel free to contact current committee members directly (they're all listed towards the front of the Bogenda and the LSA website).

Veuillez faire parvenir votre curriculum vitae ainsi qu'une lettre d'intention pour chaque position à laquelle vous postulez. Les étudiants peuvent remettre une application pour plusieurs positions.

La date limite pour poser vos candidatures dans la boîte aux lettres de la VP Administration est le 7 avril 2006 à 16h00. Vous pouvez également faire parvenir vos documents par courriel au vp-admin.lsa@mail.mcgill.ca

Les entrevues (si requises) se tiendront au début du mois de mai, à la discrédition du conseil exécutif de l'AÉD. Elles pourront se faire par téléphone si les candidats ne sont pas en ville pour l'été.

Si vous avez des questions, vous pouvez contacter la VP Administration à vp-admin.lsa@mail.mcgill.ca ou vous pouvez aussi contacter les membres des comités directement (la liste de leurs noms et courriels est dans le Bogenda et au bureau de l'AÉD). ■

CONSTITUTIONAL REVIEW IN CHINA: STRENGTHENING GOVERNMENT ACCOUNTABILITY AND HUMAN RIGHTS

by Stephanie Jones (Law I)

On March 22, the Asia Pacific Law Association of McGill (APLAM) had the privilege of welcoming Zhenmin Wang, Vice Dean and Professor at Tsinghua University School of Law, Beijing, and a leading scholar in the areas of constitutional and administrative law, rule of law, human rights, Special Administrative Region (SAR) law, and legal education. Following is a summary of his presentation prepared by Stephanie Jones.

Constitutionalism and rule of law in China are still in the early developmental stages. When the Chinese Communist Party came to power in 1949, it abolished all existing laws, including the constitution, and relied on its political agreements and "common program" until the Korean War ended and the first elected National People's Congress (NPC) passed the People's Republic of China's first constitution in 1954. During the Cultural Revolution, "rule of policy" prevailed

over "rule of law." New constitutions were introduced in 1975 and 1978, and the current Constitution was adopted in 1982.

Although the Constitution is the supreme law of China, suggesting constitutional supremacy as in Canada, constitutional review has been the responsibility of the NPC and its Standing Committee, suggesting parliamentary/congressional supremacy as in the U.K. The NPC, a 2975-member body, which meets for 2-3 weeks once a year, makes laws and supervises constitutional enforcement and Standing Committee decisions; the Standing Committee, a 175-member body, which meets for a week every other month, interprets the Constitution and national, provincial/autonomous region, and municipal legislation and decisions.

In 2000, the Act on Legislation formalized the role of the Standing Committee of the NPC in constitutional review by

enabling the State Council, the Central Military Commission, the Supreme People's Court, the Supreme People's Procuratorate, and the Standing Committees of provincial/autonomous region and municipal People's Congresses directly under the Central Government to make a written "request", and any other organization or private citizen to make a written "suggestion", to the Standing Committee of the NPC for constitutional review. In 2004, the Standing Committee responded to the demand by creating a separate interpretive body, enhancing accountability. However, constitutional review is still seen as too "political" and not "judicial" enough.

The first case was arguably the constitutional review of the Basic Law of Hong Kong Special Administrative Region in 1990, in preparation for the return of Hong Kong to China in 1997. Although the Constitution establishes

China as a socialist country, and the Basic Law preserves capitalism for "at least 50 years", the Basic Law was found valid under "one country, two systems." Another leading case was a written request for constitutional review of regulation of police powers after Sun Zhigang, a college graduate, was detained for not carrying his identity cards and beaten to death by other detainees the same night. The government changed the regulations before constitutional review; the threat of constitutional review was seen as sufficient.

Until the 2000 Act on Legislation, neither the NPC and its Standing Committee nor the ordinary courts performed much constitutional review because the Constitution was not seen as actionable. The Supreme Court ruled in 1955 and affirmed in 1988 that the courts could not interpret the Constitution because of its abstract nature and insufficient interpretive guidelines. However, since the Act, the courts have been working to reverse these decisions in order to move constitutional review away from the NPC and its Standing Committee and into the courts.

In one case, a local lower court judge found local laws unconstitutional and therefore invalid. The courts report to the People's Congresses, and the local People's Congress, furious at a court ordering its laws

struck down, had the lower court judge fired and the higher court overturn her decision. However, the lower court judge was recently invited back in response to public criticism and increased awareness about rule of law. In another case, a Beijing judge found local laws unconstitutional but did not go so far as to find them invalid. Instead, he simply stated that the local laws were inconsistent with Central Government laws, and therefore Central Government laws applied. This reasoning was well-received.

In a 2001 case dealing with the right to education, the Supreme Court revisited its 1955 and 1988 decisions. The judgment was very short, but the judge published a long article about the case and asserted that the courts have a responsibility to interpret and influence the development of the Constitution. This article was not well-received, and the courts backed down. The courts' struggle with the NPC, its Standing Committee, and its separate interpretive body appears set to continue.

Although the ordinary courts have had some difficulty enforcing rights on substantive (constitutional) grounds, they have had some success on procedural (administrative) grounds. In 2003, customs officials confiscated a book critical of Chairman Mao - from a lawyer. The customs

officials won at trial, but were asked on appeal for a legal basis for their actions. They said they had an internal list of banned books, but the list was not made public and no regulation existed. In other words, "We have no legal basis; we just do it." The lawyer won his appeal and got his book back.

Constitutionalism and rule of law in China have been making progress, but there is still a ways to go. One possibility for reform would be to expand the role of the ordinary courts as well as to establish a separate, independent constitutional court. Basic human rights cases could be decided by the ordinary courts, and more abstract issues with broader constitutional implications could be decided by the constitutional court. At present, the ordinary courts can only perform constitutional review in very limited, specific circumstances. If a case raises more general constitutional issues, proceedings must be suspended until the NPC and its Standing Committee render a decision. Whatever the form, constitutional review in China will continue to play an important role in enhancing government accountability, protecting human rights, and promoting national unification, not by force or by policy, but by law. ■

INVICTUS

by Aleks Zivanovic (Law III)

Three wise men pondered how to monetize the spoils of war...

Novus: First we will offer treaties; they can join us if they obey our commands...

Globus: An offer they can't refuse?

Interveniens: Most rational!

Novus: Give me your roads, your air and water.

Globus: Your best and brightest yearning to trade free.

Interveniens: The mines, municipal dumps and slaughter.

Novus: Send these discount-priced to me...

Globus: I can make a starlet of your daughter...

Interveniens: But what if they refuse?

Novus: Refuse? Refuse!? What untermensch could refuse this civilized alternative?

Globus: Preposterous!

Interveniens: It would only take one...

Novus: Then we shall make an example for the rest to see...

Globus: Make war?

Interveniens: Unhindered?

Novus: But with subtlety my friends... first we turn off the spigots...

Globus: Then we divide them?

Interveniens: And accuse them...?

Novus: Of grandiose ambition!

Globus: Then we pacify them...

Interveniens: By making peace!

Novus: Now you've got it.

Globus: Sublime!

Interveniens: But what if they survive?

Novus: Just long enough to be tried!

Globus: But where.... there is no court for this crime?

Interveniens: Perhaps we could build one ... especially for them?

Novus: Indeed! A Crystal Palace... bedecked with the finest Silks money can buy!

Globus: Ah, the majesty of Justice. I have a cousin who could work there...

Interveniens: But what if they charge us?

Novus: FOOL!! Who could judge us? Do you forget the imperative of the moral relative?

Globus: ... fine fellow indeed, went to all the right schools...

Interveniens: A hospital is not a hospital... but a sniper's nest?

Novus: Are we not just? Do we not feed the condemned man?

Globus: And pray for him too!

Interveniens: Indeed we make peace... profitably.

Novus: Besides, we'll pay their wages... just long enough.

Globus: Masterful.

Interveniens: Universal.

Novus: Let us not rest on our laurels. We have an alliance... it would be foolhardy not to take it out for a spin.

Globus: Amen!

Interveniens: Let's Roll. ■

PROFESSIONAL PLANIFICATION: BARREAU DE NY À L'HORIZON

by Viviana Iturriaga Espinoza (Law "IX")

Ga y est! Vous êtes à la Faculté de droit, et voilà que votre futur professionnel se dessine à l'horizon. Que ce soit volontairement ou à votre insu, vous entrevoyez plusieurs oasis d'opportunités pour parfaire votre curriculum. Le Barreau de New York est un de ceux-là.

The New York Bar is an option available to any student that has studied the Common Law. The NY Board of Law Examiners allows students with a Foreign Law degree to write their Bar Exam. McGill students, as well as students with a D.E.S.S. from University of Ottawa or Université de Montréal, can apply to the NY Bar Exam¹.

À la différence du Québec ou de l'Ontario, les études préparatoires en vue de ces examens ne relèvent pas d'une entité institutionnelle tel que l'École du Barreau. L'étudiant peut donc se préparer par lui-même ou s'inscrire auprès de compagnies privées spécialisées en la matière. Parmi ces compagnies, il y a BAR/BRI.

BAR/BRI has been preparing students to write Bar Exams for over 35 years. Their for-

mula consists of live courses taught in Manhattan and video-courses given in different locations such as exotic Singapore or closer to home, Toronto and Montreal². They also provide didactic material, software programmes and reliable schedules that enable students to cover all the legal topics susceptible of being on the ethics (MPRE), federal (MBE) and State exams.

Ces cours préparatoires viennent avec un coût parfois prohibitif³, surtout en fin d'études. Si vous êtes engagé par un cabinet new-yorkais votre cabinet paiera ces frais ainsi que les frais d'hôtel et de transport au lieu de l'examen (tous les étudiants étrangers passent l'examen à Albany, NY). Si vous avez un emploi avec un cabinet canadien vous pouvez négocier avec eux afin qu'ils défraient les coûts du cours. Que faire si vous n'avez pas le premier et le second ne se matérialise pas?

This question brings us to the first question we should have asked. Why the NY Bar? First of all because McGill's transsystemic education encompasses the Common Law, the NY Bar is one of the most pertinent professional recognition we could aspire to. Secondly, because the NY

Bar is recognized worldwide it can be relevant to any student interested in an international career. Being admitted to the NY Bar speaks for itself. But, need you take the bar review course?

Si vous voulez réussir l'examen du barreau de New York, il faut mettre toutes les chances de son côté. Les cours aident à cet effet. Ceci dit, vous pouvez « geler » les frais du cours à la date d'inscription. C'est-à-dire que vous pouvez vous inscrire en 2006 pour le cours de 2008, 2009 ou 2010. À quoi vous engagez-vous? L'inscription requiert un dépôt de 175\$US. Ce dépôt est non remboursable alors si vous changez d'avis, il ne vous sera pas remis. Si vous prenez le cours, le dépôt sera déduit des frais du cours; frais de cours à la date à laquelle vous vous êtes inscrit. Ceci représente une économie d'environ 100\$US à 150\$US par année. BAR/BRI peut également accorder une aide financière.

Now you know that you can lock-in your tuition fees and enrol with BAR/BRI today for the bar review course to be held in the future. If this is an option that you are considering, you should contact Ms Ali Martin-Mayer or Ms Catherine Bleau at the Career Placement Office (CPO) at (514) 398-6159 to discuss your career opportunities. Any other questions regarding BAR/BRI can be directed to this academic year's BAR/BRI representative: Viviana Iturriaga Espinoza at miturr@po-box.mcgill.ca or by phone at (514) 578-4576.

please contact the New York Board of Law Examiners (www.nybarexam.org) at + 1 (518) 452-8700.

² Montreal is a tentative location which is confirmed as soon as there is a sufficient number of students enrolled and having fully paid their tuition fees. Montreal is a confirmed location for 2006: McGill Faculty of Law, Room 200 NCDH. The course commences on Tuesday 23 May and ends on 11 July. Classes are scheduled from Monday to Friday from 9am to 11h30/12h00pm.

³ Le coût du cours est présentement 2 675.00\$US taxes en sus. Nous pouvons toutefois argumenter que les coûts connexes sont réduits puisque si les cours sont offerts à Montréal vous n'aurez pas à louer un appartement ailleurs et sous-louer votre appartement ici!

¹ For more information

POINT – COUNTERPOINT

A Race to the Bottom

by Nick Dodd (Law I) and Olivier Plessis (Law I)

The following is the unedited transcript of a conversation that actually took place between two Quid staffers (who will remain anonymous) who have been singularly unsuccessful at finding gainful employment for the summer. Come close and marvel at the sheer wretchedness of their situation.

Point: I must be the most unemployable man on the planet.

Counterpoint: I'm the most unemployable human on the planet.

Point: You must be mistaken. I am the least employable life form on the planet.

Counterpoint: Need I point out that I have yet to receive a single rejection letter? No matter how many positions I apply for, all I hear back is the deafening sound of silence.

Point: I should be so lucky. Generally the only reason potential employers write back to me is to point out the numerous ways in which I completely lacking anything even approaching an employable skill.

Counterpoint: That just goes to show how seriously they treat you. At the last place I applied to the reception staff laughed so hard at my CV that they had to turn all the phones off. My application amused everyone so much that no

one could keep a straight face anymore. Not a good thing at a funeral home.

Point: Ever since I posted my CV to the FSWEP website I've had to field about 10 calls a day asking if my application was some kind of sick joke. I think they've referred me to the CSIS watch list – they can't believe that someone with my skills would have even been legally allowed into the country.

Counterpoint: They've threatened to revoke my citizenship on the grounds of "shame".

Point: My mother receives hate mail from employers who couldn't believe she'd raised such a worthless contribution to society.

Counterpoint: My mother won't even talk to me ever since she read my resume.

Point: Microsoft word has an error message that says: "impossibly weak job skills" every time I try to print.

Counterpoint: I think I heard my computer dry-heave when I wrote "camp counselor" under my work experience section.

Point: That's nothing. My computer is so ashamed of having my CV on its hard drive that it won't even go on the Internet anymore.

Counterpoint: A group of Guatemalan orphans personally petitioned their manager not to hire me as a volunteer

Point: The orphanage I tried to volunteer at hired a

hitman to "eliminate" my "application".

Counterpoint: Well according to most employers, the dead rotting corpse of a horse is more employable than I.

Point: At least they give you dead horse. The most flattering comparison I've drawn is to the excessive packaging of Oreo cookies. Apparently, even those random pieces of plastic are more employable than me.

Counterpoint: I was rejected by Pro Bono Students Canada.

Point: I'm so unemployable that I can't even find a job in Alberta.

Counterpoint: Well I ... wait, I can't top that last one. This round to you Point.

Editor's Note: Please be aware, the Quid does not screen potential writers. This is the only reason that these two absolutely unemployable dregs have been allowed to work here this year. A mistake that will only be made once, we assure you. ■

YOUR RECRUITMENT EXPERIENCE

The Human Rights Working Group is interested in hearing your testimonial about recruitment and the role that your identity played in your experience of the process. A number of people have expressed concern about the types of questions asked and the exclusive nature of the process. We would like to get a better understanding of how class, race, disability, religion and other factors influence success. So if you succeeded and have pointers, were troubled by the process or have anything to say about this, please give us your feedback. We are hoping to have a panel or document to distribute next year (your testimonial will not be used without your permission) but need more info first.

Please include your name, e-mail and phone number with your testimonial and also whether you would like to remain anonymous and send to julia.nicol@mail.mcgill.ca. Please be as specific as possible. If you are interested in submitting something but are too busy right now, e-mail to let us know that you will be writing later. ■

THE SUNSHINE ARTICLE

By: Alison Glaser (Law I)

Well, here we are: the last sunshine article of the year. Now once you all wipe your eyes and stop sniffling, you may read on. As a last ditch effort at sunshinyness before the gloom of exams, I thought I would go over what it is that I have learned over this year. And so, I present to you, in no particular order, the fruits of the first year of a legal education:

I have learned that justice and fairness are not the same thing. I think this was rather surprising for many of us. I have learned that courts are not necessarily sure what both terms mean. I have learned that courts often don't know what they mean by lots of things they say. I have learned in Foundations to question *everything* (does the word "vehicle" include statues of tanks was a question I mulled over for weeks). I have learned that the French like rules and the English like to chat, but only in general since English courts often just apply rules and French courts often discuss the rules and their applications. I have learned to accept uncertainty.

I have learned that I hate the library, but that sitting in the pit doesn't necessarily produce much productive results. I have learned that getting up 5 minutes earlier in order to make my own coffee is a very beneficial thing. I have learned that I cannot survive without coffee. I am

not sure if that is a good thing.

I have learned to be more social. (I am going to be a bit sappy here, be warned) I have learned that the admissions committee does a really good job: to my fellow first years, you are all awesome. I was genuinely floored by how friendly, interesting and fun you all are. We have gotten a lot of flack this year, but truly, it has been an absolute pleasure getting to know you all.

I have learned to speak in French. I am ridiculously nervous about this for no apparent reason, but with the help of several classmates and an encouraging professor, I have gotten more comfortable. J'espère être meilleure l'année prochaine!

I have learned that I am totally lame. I love law jokes. I love watching law related stuff like *Law and Order*. I think puns on the word stare decisis are hilarious. I love saying the word "moot" (seriously, try saying it over and over again, it is really funny). I got very excited on career day when I got a mini *Charter of Rights and Freedoms*. As ultimate proof of my lameness, please read last week's Quid.

I have learned that I can be very positive, as this whole "sunshine article" thing attests to. When I was younger I was a very stressed person. I would freak out all the time about the littlest things. After a while I realized that this was

making me totally miserable and I made a conscious effort to stop. It was hard at first, and every once in a while I still have total freak outs and cry (I have learned a good cry every once in a while is a good stress reliever) but in general, I feel I am much happier.

I have learned to type my notes in class. I had never done that before law school and I really like it. I am not a fast typer, I cannot touch type and I only use two fingers when I type, but hey, I have the CCQ and Charter hyperlinked on my desktop and that is cool. I also have learned that I love solitaire (not that I ever play it when I should be working...).

Some things I have not learned: which degree is which (between the BCL and the LLB that is); what is up with the owl outside the library; what happens above the fourth floor of New Chancellor Day; and why is there a Lord in the House of Lords named Lord Ordinary?

So, if you see me around, feel free to make suggestions to me for next year's focus of my articles. Should I do an about-face and start writing the "stormcloud" article that is extremely cynical? We will see...

Finally, a big thank-you to you all for the really nice feedback on my articles. They have been really fun to write and it's good to know some of you found them fun to read. And to my professors who read this every week, don't forget: "A" is for "Alison". Just a thought....

Bonne chance everyone! ■

Want to work for the *Quid* next Year?

We need people for all positions, including layout editors, associate editors, managing editors, staff writers and photographers, even Editors-in-Chief!

If you are interested, contact Jason MacLean, outgoing EIC, before 15 April at jason.maclean@mail.mcgill.ca

JOURNÉE DES DROITS DES RÉFUGIÉS

mardi le 4 avril de 17h30 à 19h30

Atrium et Salle 101 (McGill New Chancellor Day Hall: 3644 rue Peel)

ATTENDRE N'EST PAS UN JEU D'ENFANT

Les obstacles à la réunification familiale

Mariam, une femme d'origine burkinabée, et ses trois fils témoigneront de leur expérience de la réunification familiale après plus de 3 ans de séparation

Marie-Claire, une femme originaire de Burundi, témoignera de son expérience de séparation de sa famille depuis 4 ans

Un des fils de Mariam présentera un rap qu'il a composé pour l'événement

Janet Dench du Conseil Canadien pour les réfugiés commenterà sur les problèmes qui entourent la réunification familiale

Tables d'information de différents groupes qui travaillent pour les droits des réfugiés au Canada : le Conseil canadien pour les réfugiés, La Mission communautaire de Montréal, La Maisonnée, Amnistie Internationale, Le Jardin Couvert du YMCA Centre-ville, UNCHR...

ÉVÉNEMENT GRATUIT

<Financé par le fonds discrétionnaire du doyen de la faculté de droits McGill>
Café et collation gratuits

*Un grand merci à Accès Équité et le Groupe de travail des droits de la personne pour leur soutien et leur aide à monter cet événement.

THE SQUARE

Another Chapter in my Education

jason-this and martin's still need editing

by Nicholas Dodd (Law I)

A close family member recently inquired about how it felt to be nearly finished my first year of law school. It took me awhile to come up with an appropriate analogy, but in the end I think I found one that fits the bill. My life in law has been eerily similar to a rollercoaster ride – in September there was that first big, thrilling rush down the rails, followed in the months since by a number of loops, flips, and turns that have kept things interesting. Now, as we arrive at the top of that last big plunge and stare down at the terrifying drop (known as the month of April) ahead of us, I decided to take advantage of the view of the fair and look around a bit. The following is a short summary of what I saw. I humbly present to you the lessons, about law, about Montreal, and about life in general, that I have learned since September:

Lesson #1: Law school is not as scary or stressful as everyone makes it out to be. Unless, of course, you have unreasonable expectations. Like expecting to know what's going on, expecting to get good grades, or expecting to have a life outside of the Faculty. As long as you don't expect any of these things you will be happy as a clam. A law school clam.

Lesson #2: Women are equally incomprehensible,

whether they speak French or English. And they can all see through the "just smile and nod when you don't understand" technique. Clearly someone leaked the memo.

Lesson #3: Apparently no one appreciates a good moustache anymore.

Lesson #4: Apparently not everyone is aware that libraries are supposed to be quiet places. Of course, you are welcome to talk, but doing so *in a whisper* is considered polite to those around you. Some people in this faculty feel this rule does not apply to them. This is fine, but I reserve the right to practice my old-school WWF wrestling moves on anyone making an inordinate amount of noise. Consider yourself warned.

Lesson #5: Civilians are inordinately proud of the fact that the Code is red. And not many seem to know that the Code is now blue. And I'm a bit afraid to tell them to be honest.

Lesson #6: Alberta is a mythical land, where cowboys still roam, oil flows freely down the streets, and everyone is conservative and white and you can make 14 dollars an hour working at Tim Hortons.

Lesson #7: People actually believe Lesson #6, proving

once and for all that conservative Albertans aren't the only ones who can be blinded by stereotypes.

Lesson #8: Despite the respectable aura, law students are just like everyone else. They eat like everyone else, talk like everyone else, and, like most everyone else, drink whiskey and coke out of light fixtures. I have photos to prove this, so spare us your claims of innocence.

Lesson #9: Habs fans have only two emotions: absolute euphoria or the deepest malcontent. You can always tell if the team is playing well because their eyes will sparkle, smiles are quick, and everything in life is just grand. Should the Habs commit some sin (like losing two games in a row) however, one will hear nothing from the fans except doom, gloom, and demands that whoever is responsible (usually the goaltender) be traded to some Russian team in the farthest reaches of Siberia as punishment for disgracing the venerable tradition of Canadians hockey. All the same, I must give Habs fans their due: they will never be accused of being a fair weather bunch.

Lesson #10: No one does summer better than the people of Montreal – and apparently anything above 10 degrees qualifies. It's 12 degrees out today. So if you'll excuse me... ■

ANNUAL REPORT OF THE VP EXTERNAL

by Martin Doe

The VP External's job is a broad one, essentially consisting of managing relations with any and all individuals and organizations outside of the Faculty of Law. This year the LSA was lucky not to be faced with a surprise challenge such as last year's cuts to student provincial financial aid and the student strikes that followed. However, given last year's battle with the Students' Society (SSMU) over clubs funding, there was a lot of work to do in rebuilding partnerships with the lower campus. In this vain, the LSA able to secure a new agreement with the SSMU over the summer that resulted in substantial clubs funding commitments from both sides, (totaling \$11,000) administered by a joint committee. This proved to be a catalyst for some other meaningful cooperation. Most notably, by piggy-backing off the SSMU's negotiations with MacAuslan, the LSA was able to land a new contract for better and cheaper beer with the possibility of serving draft beer as well. Both of these projects have proved successful and although other attempts at cooperation were less fruitful, the goodwill has been reestablished.

A few interesting developments occurred at the broader SSMU council. McGill students withdrew from the federal lobby group, Canadian Alliance of Students' Associations (CASA), leaving

LES AVENTURES DE CAPITAINE CORPORATE AMERICA

par Laurence Bich-Carrière (Law II)

us with no direct federal representation. Although FEUQ, our provincial lobby group, spends some time on student representation to the federal government, the relationship with them has also been rocky. In this light, next year will involve much reflection on how and through who McGill students should be represented to the different levels of government. Aside from government representation, a major recurring issue at the SSMU involved the fate of CKUT 90.3 FM – Radio McGill. Persistent complaints about the lack of student involvement and listenership culminated in a referendum on the station's very existence as a campus media outlet. To their credit, CKUT's programming is of the highest quality and they have taken strides to address these complaints. However, many fear that now that they did win the referendum to secure their direct student funding, these efforts will cease. I would not be surprised if the issue arises again very soon.

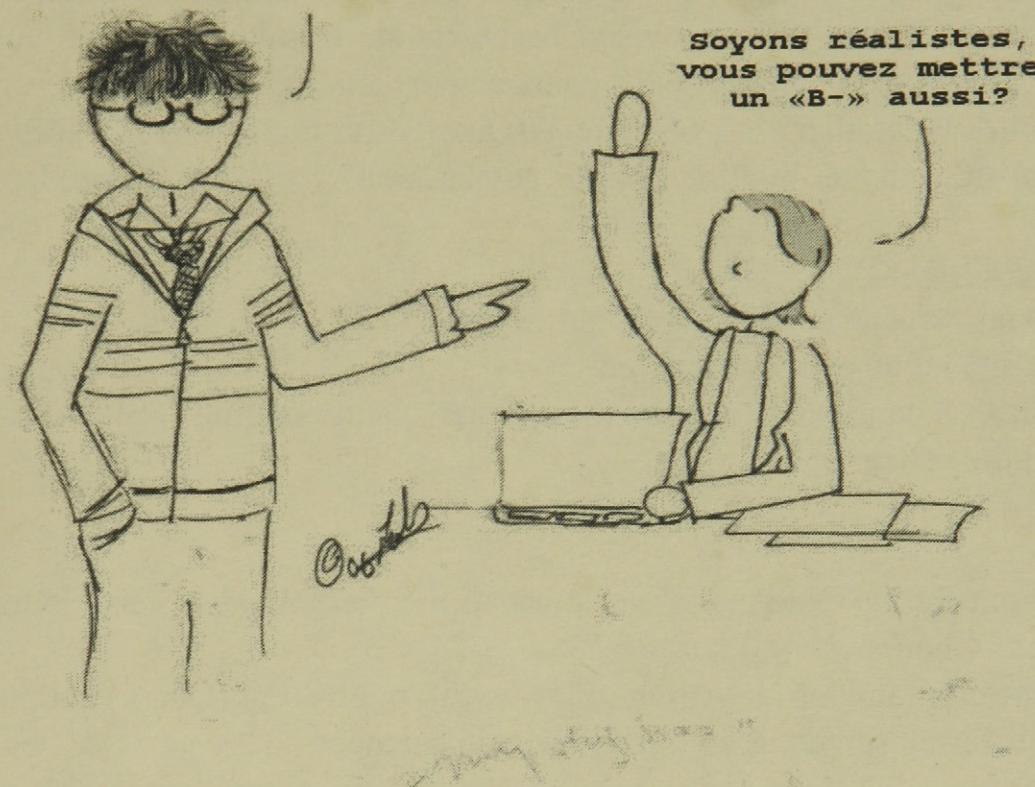
Beyond the borders of our campus, there was not a lot of news for this year. The CADED (Confédération Des Étudiants en Droit) allowed the different LSA's across Quebec law schools to discuss issues of common interest. Face-a-Face, the French-language debating tournament was also organized; and several ideas for future joint events (a joint party and possibly a golf tournament) were developed in the hopes that they might come about next year.

In the end, it was a good year, even if it was not the busiest. Thankfully, I know that I have a very competent successor who is up to the challenges that may come her way next year. I wish her the best of luck. ■

À la réserve, je mettrai les anciens examens avec des réponses «A».

Oui, vous avez une question?

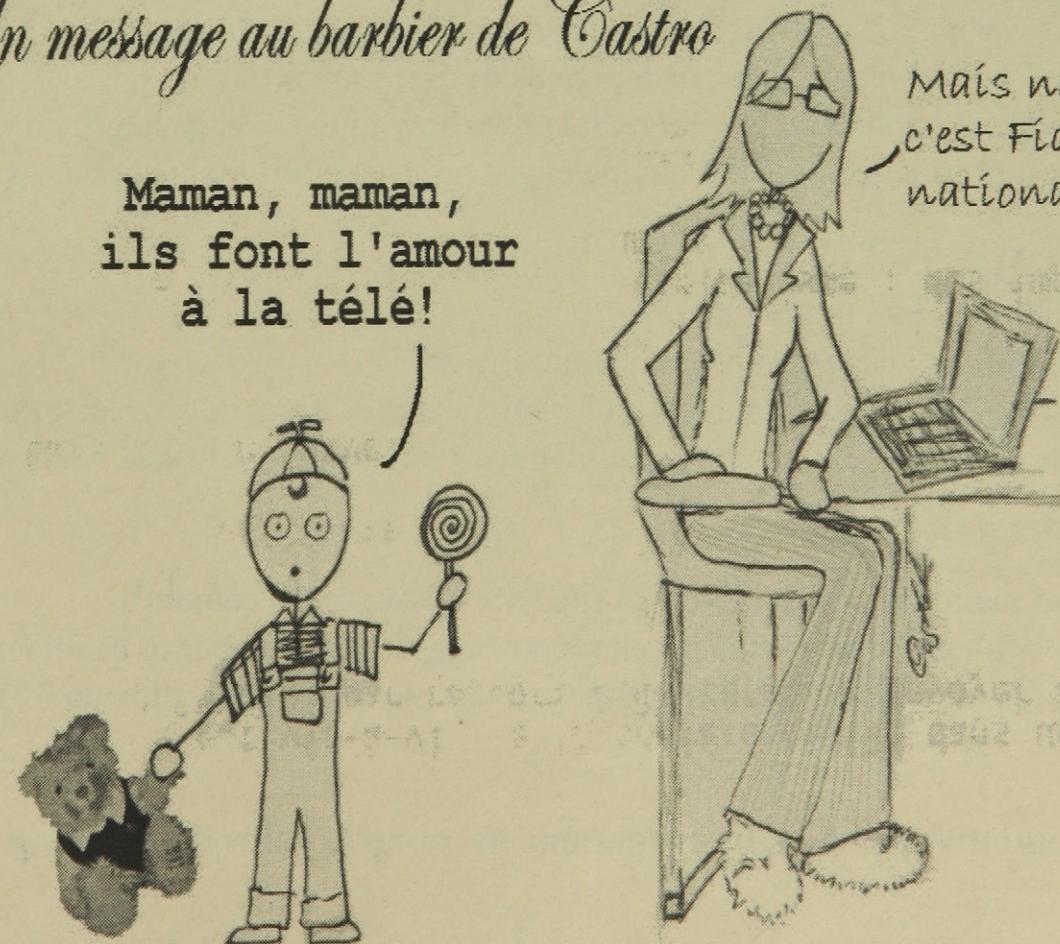
Soyons réalistes, vous pouvez mettre un «B-» aussi?



Un message au barbier de Castro

Maman, maman,
ils font l'amour
à la télé!

Mais non, mon cheri
c'est Fidel Castro qui
nationalise Chiquita



Call for Quid Volunteers!!!

This is your chance to join the Quid next year!

Contact the EIC at jason.maclean@mail.mcgill.ca no later than **April 15** if you are interested in working with us. Tell us who you are, what you've done, which position you are interested in, how great you think the Quid is, etc.

We welcome applications for all positions. (See <http://www.law.mcgill.ca/quid/volunteers.html> for details on positions.)

Editors-in-Chief (2)

Duties: Organises managing, editing, layout and printing of the Quid; harasses the LSA exec whenever the scanner breaks down; has total control over the Quid's exclusive basement suite and gets to pick on Law Journal members at will.

Time commitment: Unlimited potential! 6-18 hours a week is required to prepare every issue.

The perfect candidate: Is familiar with publishing (Quark) and imaging (PSP) software; is fluent in French and English; is somewhat masochistic, and has an attraction for unpaid, non-credited and thankless jobs (or is a previous LSA member).

Assistant Editors-in-Chief (2)

Duties: Coordinates layout, and supervises layout editors.

Time commitment: 2-6 hours every other week.

The perfect candidate: Is familiar with publishing (Quark) and imaging (PSP) software; enjoys chasing yellow weird-looking bugs around the office.

Layout Editor (3)

Duties: Does the layout for the Quid every week; has to live with the Assistant Editor-in-Chief's mood swings.

Time commitment: 2-4 hours every other week.

The perfect candidate: Is familiar or willing to learn with publishing (Quark) and imaging (PSP) software; likes spending hours in front of a flickering screen in an overly heated basement.

Managing Editors (2)

Duties: Communicates with potential advertisers, and organises all communications with firms.

Time commitment: 2 hours weekly, with rush periods of 5-10 hours.

The perfect candidate: Is organized; is bilingual; knows how to use a calculator and/or Excel; has an ability to write formal yet not overly pompous letters; enjoys having angry messages left on his/her answering machine.

Associate Editors (1-3)

Duties: Proof-reads articles sent to the Quid.

Time commitment: 2 hours weekly, in a specific time-frame.

The perfect candidate: Has an excellent grasp of English and/or French; can resist the urge of inserting profanities when he/she disagrees with what he/she is reading; can live with knowing in advance what will be in next week's Quid.

Web Editor (1-2)

Duties: Improves and maintains the Quid's web site (www.law.mcgill.ca/quid).

Time commitment: 1-3 hours every other week (depending on the number of candidates).

The perfect candidate: Is familiar with web editing; takes pleasure in resetting an SSH password over and over again.

L'initiative personnelle est garante du progrès collectif. Proposez-nous votre projet!